BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 24.101.413 renewals and)
24.154.401 fees) (Licensed Addiction Counselors)

TO: All Concerned Persons

- 1. On March 13, 2008, the Department of Labor and Industry (department) published MAR Notice No. 24-154-7 regarding the proposed amendment of the above-stated rules, at page 444 of the 2008 Montana Administrative Register, issue no. 5.
- 2. On April 3, 2008, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the April 11, 2008, deadline.
- 3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:
- <u>COMMENT 1</u>: Several commenters opposed the increase in the license renewal fee, stating that the increase is exorbitant and the department should take into consideration the relatively low pay of licensed addiction counselors.
- <u>RESPONSE 1</u>: The department is statutorily required to set and maintain fees that are commensurate with the associated program costs to adequately fund the licensure and regulation of licensed addiction counselors. The department cannot set fees according to inflation, cost of living, or the current salaries of licensees, but will continue to monitor program expenses to ensure fiscal responsibility.
- <u>COMMENT 2</u>: Several commenters opined that the department failed to include details in the notice of proposed amendment to show cause for the fee increase.
- <u>RESPONSE 2</u>: The department calculated projected costs for FY09 forward based on the program's actual costs in FY07 and FY08. These costs along with the removal of approximately one-half the program's funding by the Department of Public Health and Human Services were the determining factors in setting the fee increase.

The department is required biennially to provide detailed information to the Montana Legislature on current and projected licensee numbers and program revenues, expenses, activities, goals, objectives, and complaints. The department also reviews a current financial report, including the program's fiscal year income and expenditures to date, when considering the adequacy of program fees. This fiscal information is available from the department and is open to public inspection and scrutiny.

<u>COMMENT 3</u>: Commenters asserted that the two weeks' notice provided by the department was insufficient in which to prepare a rebuttal to the proposed changes.

<u>RESPONSE 3</u>: All executive branch agencies are statutorily required to provide the public at least 20 days' notice of a rulemaking hearing and at least 28 days from the date of the original notice in which to submit comments. The department has fully complied with all the requirements of the Montana Administrative Procedure Act per 2-4-302, MCA.

<u>COMMENT 4</u>: Commenters opposed the change from a biennial to annual renewal period because it will be more difficult for licensees to obtain the required continuing education in one year.

<u>RESPONSE 4</u>: The department determined that a biennial renewal was not fiscally feasible and is changing to an annual renewal to comply with the Department of Administration's fiscal guidelines, to which the Department of Labor and Industry is required to adhere. At this time, the department has not proposed to amend the rules regarding continuing education requirements.

<u>COMMENT 5</u>: One commenter suggested the department create another level of licensure for administrative personnel who don't generate revenue with the LAC license.

<u>RESPONSE 5</u>: Additional types or levels of licensure can only be created in statute by the Montana Legislature. The department is unable to address the suggestion as the comment is outside the scope of this rulemaking notice.

<u>COMMENT 6</u>: Several commenters opposed the deletion of the oral examination requirement without a concurrent increase in the requisite supervised counseling experience to 2000 hours.

<u>RESPONSE 6</u>: The department is deleting the fee to comply with the 2005 legislative amendment that removed the oral exam requirement. The department has not proposed any change to the experience requirement and is unable to address the comment as it is outside the scope of this rulemaking notice.

4. The department has amended ARM 24.101.413 and 24.154.401 exactly as proposed.

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 28, 2008